

February 11, 2000

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MediaOne Telecommunications of Massachusetts, Inc.

6 Campanelli Drive

Andover, MA 01810

Re: DTE 99-99 - MediaOne Request for Additional Exchange Codes Outside of Rationing Plan

I. Introduction

On December 16, 1999, MediaOne Telecommunications of Massachusetts, Inc. ("MediaOne") filed with the Department of Telecommunications and Energy ("Department") a request for the Department to order NeuStar, the North American Numbering Plan Administrator ("NANPA") to allocate MediaOne additional exchange codes outside of the rationing plan currently in place in Massachusetts. The request was filed pursuant to the authority granted to the Department by the Federal Communications Commission ("FCC") to direct the NANPA to assign NXX codes to a carrier outside the rationing process. See In re Massachusetts Department of Telecommunications and Energy's Petition for Waiver of section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Code, CC Docket No. 96-98, Released September 15, 1999 ("Massachusetts Order").

MediaOne seeks six NXX codes in the 508 NPA and one NXX in the 781 NPA for the purpose of serving seven communities (approximately 20,000 customers) by April, 2000.⁽¹⁾ In its request, MediaOne asked that the codes be assigned to it no later than January 15, 2000, in order to enable it to provide service to the affected communities by April 2000.

On January 19, 2000, Bell Atlantic-Massachusetts ("Bell Atlantic") and NEXTLINK Massachusetts, Inc. ("NEXTLINK") filed comments on MediaOne's request. On January 25, 2000, MediaOne filed a response to the comments. In addition, on January 31, 2000, at the request of the Department, MediaOne filed comments discussing the effect of Bell Atlantic's pooling proposal⁽²⁾ on MediaOne's request for additional codes.

On January 28, 2000, the industry approved new jeopardy procedures for Massachusetts designed to give carriers more timely use of "priority" codes.⁽³⁾ Under these new procedures, an emergency pool of 22 codes in 617 and 38 codes in 508 was created. Codes in these emergency pools are available on a first-come, first-served basis to carriers that meet a more stringent "imminent exhaust" criteria (*i.e.*, three months to exhaust). In addition, any carriers that have priority codes in 508 and 617 will be assigned those codes beginning in March, 2000, as long as the carrier can certify that it is within four months of exhaust (five months for carriers allocated a code in December, 1999). Priority codes reserved for carriers not meeting the months-to-exhaust criteria will be returned to the extreme exhaust "priority" pool and allocated under the established lottery/priority number process. The jeopardy procedures for the 781 and 978 area codes did not change.

On February 9, 2000, at the Department's request, MediaOne provided additional proprietary information concerning its business plans and technical readiness for the communities covered by its request. The Department grants protection, pursuant to G.L. c. 25, Section 5d, to this material.

II. Standard of Review

In the Massachusetts Order, the FCC granted the Department the authority "to hear and address claims of carriers claiming that they do not, or in the near future will not, have any line numbers remaining in their NXX codes, and will be unable to serve customers if they cannot obtain an NXX code, or that they are using or will have to use extraordinary and unreasonable costly measures to provide service." Id. at ¶ 38. The FCC explained that this authority is meant "to ensure that carriers in dire need of numbering resources can obtain the numbering resources necessary to continue to provide service to their prospective customers, if the rationing plan will not ensure that the carrier will have adequate and timely access to numbering resources." Upon a determination by the Department that such relief is necessary, the Department may direct the NANPA to assign codes to a carrier outside the rationing plan currently in place in an area code. Id. To make its determination, the Department may request "whatever information [it] deems necessary to evaluate a carrier's request . . ." including business plans, information on new services requests that the carrier could not accommodate because of its lack of numbering resources, historical growth rates, and extraordinary measures the carrier has taken to obtain numbering resources. Id.

The Department interprets the FCC's Massachusetts Order as requiring that we make the following determinations in order to grant a request for additional exchange codes outside of the current rationing plan in place in an area code: (1) whether a carrier is ready from a technical and marketing standpoint to provide service to prospective customers; (2) whether the current rationing plan does not allow for adequate and timely access to NXX codes to serve these customers; and (3) whether the carrier has made reasonable attempts outside of the rationing process to obtain NXX codes but has been unsuccessful. If a carrier meets these criteria, the Department will grant the request.

III. Discussion

MediaOne, which currently serves 57 Eastern Massachusetts communities, plans to expand its telephone service to as many 80 additional communities in 2000. Kowolenko Affidavit. MediaOne's business plans contemplate expanding service to 46 additional communities in the first half of 2000, for which it will need 36 NXX codes. Id. MediaOne currently has, or has access to, 13 NXX codes to serve 15 of those 46 communities by March 2000. Id. To provide service in the remaining 31 communities, MediaOne requires an additional 22 codes. Although originally petitioning the

Department for a code to serve the Easton region, MediaOne has since received a priority code and has therefore withdrawn that town from its code request (February 9, 2000 Letter). Therefore, focusing just on its "immediate needs" through April 2000,⁽⁴⁾ MediaOne seeks seven initial codes to serve the following seven communities: Whitman/Hansen in the 781 area code; and Blackstone, East Bridgewater, Bellingham, Millis, and Raynham in the 508 area code.^{(5), (6)}

MediaOne submitted evidence that it is ready from a technical and marketing standpoint to provide service in these eight communities by April 2000 (Kowolenko Affidavit; February 9th Letter from MediaOne). No Commenters dispute these facts. Therefore, we find that MediaOne has met the first part of the standard.

MediaOne has also presented evidence that it is actively participating in the lottery and, with the exception of the code for Easton, is unable to obtain NXX codes within a timeframe that will allow it to serve these eight communities (id., February 9, 2000 Letter). We have verified MediaOne's information with NeuStar. Bell Atlantic contends that the recently adopted changes to the industry rationing procedures address MediaOne's need for codes and therefore the Department should take no action on the MediaOne request at this time (January 19, 2000 Comments of Bell Atlantic). However, as MediaOne points out, the new jeopardy procedures do not affect its current request, although the changes will likely improve MediaOne's prospects for obtaining codes in the second quarter 2000 (January 25th Comments at 2-4). Therefore, we find that MediaOne has met the second part of our standard by demonstrating that the industry rationing plan does not provide adequate and timely access to NXX codes to serve prospective customers.

In addition, the record shows that MediaOne has taken reasonable steps to obtain codes outside of the rationing process but has been unsuccessful in meeting all of its needs. MediaOne has entered a code-sharing agreement with one carrier and is pursuing similar agreements with other carriers (Request at 4). MediaOne also is prepared to implement thousands-block number pooling by April 2000, significantly improving its numbering resources for the remainder of 2000 and beyond.⁽⁷⁾ Therefore, we find that MediaOne has met the third part of our standard. Accordingly, we grant MediaOne's request for assignment outside of the rationing process of seven NXX codes from the 508 area code and one NXX code from the 781 area code. Once number pooling is in place, MediaOne has committed to immediately return to the number pools the majority of telephone

numbers from these NXXs for assignments to carriers. We will hold MediaOne to this commitment.

IV. Order

Accordingly, we direct NeuStar to assign six NXX codes from the 508 area code and one NXX code from the 781 area code to MediaOne within two business days of the date of this order, for activation in accordance with existing industry procedures. In the event that the number pooling trial for the Greater Boston MSA is in place during the time of activation of these newly assigned NXX codes, the Department may require MediaOne to draw from the pooled numbers rather than activating these designated codes.

By Order of the Department,

James Connelly, Commissioner

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

1. MediaOne originally requested a total of eight codes (seven in 508 and one in 781) but revised its request on January 25, 1999 (see discussion below) and again on February 9, 2000, reducing the number of codes requested from eight to seven.

2. On January 20, 2000, Bell Atlantic filed a proposal in this docket for thousands-block number pooling ("TNP"). Under its proposal, TNP would be implemented in the 617 and 508 area codes in three phases. Beginning April 4, 2000, vacant thousands blocks within the NXX codes currently on the "priority list" would be available for assignment. Uncontaminated blocks from carriers' embedded base of NXX codes in the 617 and 508 area codes would be available for assignment beginning June 15 and July 3, 2000, respectively. Contaminated blocks from carriers' embedded base of NXX codes would be available for assignment after February 1, 2001. Pooling in the 781 and 978 area codes would begin after completion of the second phase of pooling for the 617 and 508 area codes but no later than November 1, 2000.

3. Under the former procedures, carriers that had been obtaining codes on the "priority list" generally were not assigned (and could not activate) those codes for many months.

4. MediaOne limited its request to NXXs that it needs to meet its launch plans through April, 2000, "hoping that the remaining codes needed [for rollout for the rest of 2000] could eventually be acquired with the implementation of number pooling, through continued participation in the lottery, and other efforts." January 31st Comments at 2.

5. In its original request, MediaOne also sought a code for Medway in the 508 area code. However, in its January 25th Comments, MediaOne eliminated the request for that code. MediaOne states that because the Department failed to rule on its request by January 15, 1999, its launch in Medway necessarily would be delayed and therefore MediaOne could use a code that it had obtained in the lottery for Medway but which MediaOne was planning on swapping with a community in which it will launch its service later in the year. Id.

6. As with Medway, MediaOne obtained a code in the lottery process to serve Whitman/Hansen but plans on using that code for another community that has a launch after April 2000.

7. In its January 31st Comments, MediaOne states that Bell Atlantic's thousands-block number pooling proposal, if adopted by the Department, would not affect its current request for NXX codes since "the earliest the Bell Atlantic Proposal could provide codes for MediaOne's use would be in mid-June" (January 31st Comments at 2). According to MediaOne, the Bell Atlantic Proposal could likely help MediaOne with its numbering needs for the second half of 2000 and beyond.